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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,003	07/30/2003	Scott F. Watson	038.P006	2312

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THE WALT DISNEY COMPANY
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EXAMINER

BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/632,003

Applicant(s)

WATSON ET AL.

Examiner

KIEU-OANH BUI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/25/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remark

1. Claims 48-106 have been canceled in the amendment dated 09/08/2006; and claims 1-47 are pending for reconsideration.

Response to Arguments

2. Applicant's arguments filed on 09/08/06 have been fully considered but they are not persuasive.

Applicant basically argues that Belfiore does not “supply an asset list over said network to a user device, said user device including a client process” as recited by claim 1. In fact, the examiner discloses and interprets the claim as Belfiore teaches “a method for delivering an asset over a network” (Fig. 1 and page 4/par. 0044 to 0047 for the platform 115 delivers an asset over the network to the client device 110, and the asset can be events or messaging) comprising: “supplying an asset list by a content provider over the network to a user device, said user device including a client process” (Fig. 5 and page 11/par. 0123 to page 12/par. 0126 for event component 155 ensures the supplying of list of events appropriately to clients and notifications are delivered to clients/users); “and delivering the asset, corresponding to the asset list, over the network to the user device when a predetermined constraint is satisfied” (page 12/par. 0127-0128 for the asset is delivered to the clients/users based on predetermined constraints or event collection parameters).

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Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In response to applicant's argument that "the claimed subject matter is not related to distributed computing", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

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4. Claims 1-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Belfiore et al. (U.S. Patent Pub No. 2002/0059425 A1).

Regarding claim 1, Belfiore discloses “a method for delivering an asset over a network” (Fig. 1 and page 4/par. 0044 to 0047 for the platform 115 delivers an asset over the network to the client device 110; and the asset can be events or messaging) comprising: “supplying an asset list by a content provider over the network to a user device, said user device including a client process” (Fig. 5 and page 11/par. 0123 to page 12/par. 0126 for event component 155 ensures the supplying of list of events appropriately to clients and notifications are delivered to clients/users); “and delivering the asset, corresponding to the asset list, over the network to the user device when a predetermined constraint is satisfied” (page 12/par. 0127-0128 for the asset is delivered to the clients/users based on predetermined constraints or event collection parameters).

As for claim 2, Belfiore discloses “wherein the asset is at least one of an audio content, a video content, a text content, a right to use license or a multimedia file” (Fig. 1, events are gathered and generated based on data stored on storage 145 and/or from other sources of the internet servers, application servers etc., page 22/par. 0225-0226, and refer to page 15/par. 0167-0168 for all kind of multimedia is associated with server devices 140).

As for claim 3, Belfiore further discloses “wherein the asset list is generated by a request from the user” (Fig. 11, and page 19/par. 0203, as fro MyState list is associated with a list of items requested from the user for a specific event).

As for claim 4, Belfiore further discloses “including accessing a content web site of a content provider” (page 23/par. 0239-0240 for an example of accessing a content web site using URL for downloading the content to the user’s device).

As for claim 5, Belfiore discloses “wherein the predetermined constraint is at least one of the user device being idle, the network Quality of Service (QoS), or the bandwidth usage being below a predetermined operating level” (page 12/par. 0127-0128 for QoS, and page 13/par. 0138 & 0145 for bandwidth or usage availability).

As for claim 6, Belfiore discloses “wherein the predetermined constraint is at least one of the user device CPU usage, or memory usage in the user device being below predetermined operating levels” (page 9/par. 0097-0099 as the user changes devices, the system adapts to change or have proper storage or memory usage to use).

As for claim 7, Belfiore discloses “wherein the client initiates the delivery of the asset, from the content provider, over the network to the user device” (Fig. 4, and page 10, par. 0109 as the user can set the preference request for event information or the asset, and the asset is delivered to the user over the network link 410).

As for claim 8, Belfiore further discloses “wherein the asset is stored on a local cache” (page 23/par. 0239 as the application or asset can be stored on local cache, as the user accesses the content of an URL or a web site page).

As for claim 9, Belfiore further discloses “comprising presenting the stored asset in conjunction with real time content, said real time content provided by the content provider” (Fig. 2/item 280 for real time or live data from the application provider, page 6/par. 0060 & 0063).

As for claim 10, Belfiore discloses “wherein the time of day is included in the predetermined constraint” (page 11/par. 0122 for event times and/or page 13/par. 0142 for times at a specific time interval can be preset).

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As for claim 11, Belfiore further discloses “determining at least one parameter from the user device CPU usage, the bandwidth usage, the local cache usage, and a user device activity timer” (refer to claims 6 & 8).

As for claim 12, Belfiore further suggests “comprising presenting a substitute asset in conjunction with real time content from the content provider, in the event that the asset is unavailable at the user” (page 6, par. 0063, if live data is unavailable, the replica data is available as an alternative to use).

Regarding claims 13-25, these claims for “a method for presenting to an user a continuous and uninterrupted stream of content over the network, the method comprising: supplying an asset list by a content provider over the network to a client process, said client process operating in a device of the user; delivering an asset, from a remote location, over the network to the user device when a predetermined constraint is satisfied, wherein information of the remote location is obtained from the asset list; and integrating the delivered asset with a content stream being received by the user device from the remote location over the network, and thereby providing the user with a continuous and uninterrupted stream of content” are rejected for the reasons given in the scope of claims 1-12 with media streams of content delivered over the Internet to the remote user/client as stated in page 22/par. 0225, not limited to the cited paragraphs above, but also to the entire disclosure of Belfiore.

As for claims 26-42, these claims for “a system for presenting to an user a continuous and uninterrupted stream of content over the Internet, the system comprising: an asset list made available by a content provider over the internet to a client process, said client process operating in a device of the user; an asset, made available from a remote location, over the network to the

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user device when a predetermined constraint is satisfied, wherein information of the remote location is obtained from the asset list” are rejected for the reasons given in the scope of claims 1-12 with media streams of content delivered over the Internet to the remote client/user as stated in page 22/par. 0225, not limited to the cited paragraphs above, but also to the entire disclosure of Belfiore.

Regarding claim 43, Belfiore discloses “a method for presenting to an user a stream of content over the network, the method comprising: supplying an asset list by a content provider over the network to a client process, said client process operating on a device of the user; delivering an asset, from a remote location, over the network to the user device when a predetermined constraint is satisfied, wherein information of the remote location is obtained from the asset list; and integrating the delivered asset with a content stream being received by the user device from the remote location over the network; wherein the asset and the content stream are essentially seamlessly presented to the user” (refer to claims 13-25 as noted above).

Regarding claim 44, Belfiore discloses “a system for presenting to an user a continuous and uninterrupted stream of content over the Internet, the system comprising: an asset list made available by a content provider over the internet to a client process, said client process operating in a device of the user; an asset, made available from a remote location, over the network to the user device when a predetermined constraint is satisfied, wherein information of the remote location is obtained from the asset list; and an integrator tool for integrating the asset with a content stream being received by the user device from the remote location over the Internet, thereby providing the user with an uninterrupted stream of content; wherein the predetermined constraint includes at least one of at least one of the user device being idle, the

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Internet bandwidth usage being below a predetermined operating level, the time of day, the user device CPU usage, or memory usage being below predetermined operating levels” are rejected for the reasons given in the scope of claims 1-12 with media streams of content delivered over the Internet to the remote client/user as stated in page 22/par. 0225, not limited to the cited paragraphs above, but also to the entire disclosure of Belfiore.

As for claim 45, Belfiore discloses “a method for receiving an asset over a network comprising: delivering an asset list by a content provider over the network to a client, said client operating in a user device; and receiving the asset, corresponding to the asset list, over the network at the user device when a predetermined constraint is satisfied; wherein the predetermined constraint is at least one of the user device being idle, the network Quality of Service (QOS), the network bandwidth usage being below a predetermined operating level, the user device CPU usage, or memory usage in the user device being below predetermined operating levels” (refer to claims 1, 5-6 & 10 above).

As for claim 46, Belfiore suggests “a method for providing a home media library to a user over a network, the method comprising: supplying an asset list by a content provider over the network to a set-top box, the set-top box including a client process which manages the delivery of assets; and delivering an asset, from a remote location, over the network to the set-top box when a predetermined constraint is satisfied, as indicated by the client process wherein information of the remote location is obtained from the asset list” (refer to claims 1, 13, with a set top box is included as one of the user devices, page 1/par. 0009).

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As for claim 47, Belfiore suggests “a method of transmitting movies to a set-top box in a viewer's home for storage and subsequent viewing, the method comprising the steps of: receiving a media asset list from a content provider on a set top box, the media asset list comprising a list of media assets to be downloaded and information about the location of each of the media assets; running a client process on a set top box that reads the media asset list to determine what media assets should be transferred to the set top box and manages the delivery of digital media assets based on predetermined constraints; downloading digital media assets from a remote content provider to the set top box when the predetermined constraints are satisfied; and storing the downloaded digital media assets on the set top box for subsequent viewing by the user on a television or other display device” (refer to claims 1, 13, with a set top box is included as one of the user devices for display or other display device, page 1/par. 0009).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to PTO New Central Fax number:

(571) 273-8300, (for Technology Center 2600 only)

Hand deliveries must be made to Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to "Krista" Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kieu-Oanh Bui
Primary Examiner
Art Unit 2623

KB
Feb.02, 2007